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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**  
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11 THOMAS W. MCNAMARA,  
12 Plaintiff(s),

Case No.: 2:17-cv-02966-GMN-NJK

13 v.

**Order**

[Docket No. 65]

14 CHARLES M. HALLINAN, et al.,  
15 Defendant(s).

16 On December 17, 2018, the Court granted in part and denied in part Plaintiff's motion to  
17 compel discovery. Docket No. 61. Now pending before the Court is Plaintiff's motion for an  
18 award of expenses. Docket No. 65. Defendants filed a response in opposition, and Plaintiff filed  
19 a reply. Docket Nos. 66, 71. The motion is properly decided without a hearing. *See* Local Rule  
20 78-1.

21 A court has discretion to award reasonable expenses when it grants in part and denies in  
22 part a motion to compel discovery. *See* Fed. R. Civ. P. 37(a)(5)(C). In exercising that discretion,  
23 the Court may consider the exceptions outlined in Rule 37(a)(5)(A) of the Federal Rules of Civil  
24 Procedure. *See Wilson v. Greater Las Vegas Assoc. of Realtors*, 2016 WL 4087272, at \*1 (D. Nev.  
25 July 28, 2016). Under these exceptions, an award of expenses is not appropriate if (1) the movant  
26 filed the motion before conducting a meet-and-confer, (2) the losing party was substantially  
27 justified in the position taken, or (3) other circumstances make an award of expenses unjust. *Id.*  
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1 With respect to the second exception, a position is “substantially justified” if there was a genuine  
2 dispute on matters on which reasonable people could differ as to the outcome. *Id.*

3 In the circumstances of this case, the Court finds Defendants to have been substantially  
4 justified in opposing the motion to compel.<sup>1</sup>

5 Accordingly, the motion for an award of expenses is **DENIED**.

6 IT IS SO ORDERED.

7 Dated: February 25, 2019

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Nancy J. Koppe  
United States Magistrate Judge

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27 <sup>1</sup> The Court opines herein only as to Defendants’ positions regarding the discovery that  
28 was compelled, and the Court expresses no opinion on the other issues for which the motion to  
compel was denied without prejudice.